

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1394

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-30-5-3, AS AMENDED BY P.L.291-2001, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. A person who violates section 1 or 2 of this chapter commits a Class D felony if:

(1) the person has a previous conviction of operating while intoxicated ~~and~~

(2) ~~the previous conviction of operating while intoxicated that~~ occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; ~~or~~

(2) **the person:**

(A) **is at least twenty-one (21) years of age;**

(B) **violates section 1(b) or 2(b) of this chapter; and**

(C) **operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.**

SECTION 2. IC 9-30-5-5, AS AMENDED BY P.L.175-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol **but less than fifteen-hundredths (0.15) gram of alcohol** per:

(A) one hundred (100) milliliters of the person's blood; or

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- (B) two hundred ten (210) liters of the person's breath;
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's ~~body~~; **blood**; or
- (3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter, **or if the person knowingly operated the motor vehicle with a driver's license that was suspended or revoked for a previous conviction for operating a vehicle while intoxicated under IC 9-30-5.**

(b) **A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:**

- (1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:**
 - (A) one hundred (100) milliliters of the person's blood; or**
 - (B) two hundred ten (210) liters of the person's breath; or**
- (2) with a controlled substance listed in schedule I or II of IC 35-48-4 or its metabolite in the person's blood;**

commits a Class B felony.

(c) A person who violates subsection (a) **or (b)** commits a separate offense for each person whose death is caused by the violation of subsection (a) **or (b)**.

~~(c)~~ **(d)** It is a defense under subsection (a)(2) **or subsection (b)(2)** that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 3. IC 9-30-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If it appears from the records maintained in the bureau that a person's driving record makes the person a habitual violator under section 4 of this chapter, the bureau shall mail a notice to the person's last known address that informs the person that the person's driving privileges will be suspended in thirty (30) days because the person is a habitual violator according to the records of the bureau.

(b) Thirty (30) days after the bureau has mailed a notice under this section, the bureau shall suspend the person's driving privileges for:

- (1) except as provided in subdivision (2), ten (10) years if the person is a habitual violator under section 4(a) of this chapter;**
- (2) life if the person is a habitual violator under section 4(a) of this chapter and has at least two (2) violations under section 4(a)(4) through 4(a)(7) of this chapter;**
- (3) ten (10) years if the person is a habitual violator under section**

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4(b) of this chapter; or

~~(3)~~ **(4)** five (5) years if the person is a habitual violator under section 4(c) of this chapter.

(c) The notice must inform the person that the person may be entitled to relief under section 6 of this chapter or may seek judicial review of the person's suspension under this chapter.

SECTION 4. [EFFECTIVE JULY 1, 2004] IC 9-30-5-5, as amended by this act, applies only to offenses committed after June 30, 2004.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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